

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

**GEORGIA-PACIFIC CONSUMER PRODUCTS,
LP, FORT JAMES CORPORATION, and
GEORGIA-PACIFIC, LLC**

Plaintiffs,

v.

**NCR CORPORATION, INTERNATIONAL
PAPER COMPANY, and WEYERHAEUSER
COMPANY,**

Defendants,

INTERNATIONAL PAPER COMPANY,

Counterclaimant,

v.

**GEORGIA-PACIFIC CONSUMER PRODUCTS,
LP, FORT JAMES CORPORATION, and
GEORGIA-PACIFIC LLC**

Counterdefendants,

INTERNATIONAL PAPER COMPANY,

Crossclaimant,

v.

**NCR CORPORATION and WEYERHAEUSER
COMPANY,**

Crossdefendants.

Civil Action No. 1:11-cv-483

Judge Robert J. Jonker

REVISED STIPULATION ON PHASE ONE CERCLA LIABILITY AND ORDER

Plaintiffs, Georgia-Pacific Consumer Products LP, Fort James Corporation, and Georgia-Pacific LLC (collectively “Georgia-Pacific”), and Defendant Weyerhaeuser Company enter into this Revised Stipulation for the limited purpose of establishing certain elements of CERCLA liability that otherwise would need to be tried in Phase One of this action, as described in the Joint Status Report filed with the Court on June 22, 2011.

Georgia-Pacific and Weyerhaeuser, solely for purposes of this action, and with respect to the claims each has asserted against the other, hereby stipulate as follows:

1. Georgia-Pacific and Weyerhaeuser are each owners or operators of one or more facilities at the Kalamazoo River Superfund Site ("Site") within the meaning of section 101(20)(A) of CERCLA, 42 U.S.C. § 9601(20)(A).

2. There has been a release or threatened release of PCBs, a hazardous substance, within the meaning of sections 101(14) and (22) of CERCLA, 42 U.S.C. § 9601(14), (22), from these facilities to a portion of the Site.

3. The elements of CERCLA liability described in paragraphs 1 and 2 above are hereby established for purposes of Georgia-Pacific's First Amended Complaint against Weyerhaeuser and of Weyerhaeuser's Counterclaim against Georgia-Pacific. Similarly, Georgia-Pacific and Weyerhaeuser each stipulates that the elements of CERCLA liability described in paragraphs 1 and 2 above are hereby established as to them for purposes of all claims and cross-claims by or against defendants NCR Corporation and International Paper Company.

4. Neither Georgia-Pacific nor Weyerhaeuser will contend against the other that it has no liability under CERCLA in this action because it allegedly discharged only "de minimus" amounts of hazardous substances.

5. Georgia-Pacific and Weyerhaeuser acknowledge that whether Weyerhaeuser is liable for contamination of certain portions of the site, including contamination of those portions located upstream of the former Plainwell mill, is an issue that could relate to both divisibility and liability. However, the Joint Status Report that governs this case specifically reserves divisibility of liability for the site for Phase Two of the litigation, and Georgia-Pacific and Weyerhaeuser agree that it will be litigated as part of Phase Two unless otherwise ordered by the Court.

6. With respect to issues that remain to be litigated in later stages of this action, this Stipulation shall not limit the rights of each party to litigate any other issues, including but not limited to:

- a. The amount and the recoverability of response costs;
- b. The extent of liability, apportionment and equitable allocation of response costs or other relief sought in this case; and
- c. The extent to which liability for injuries, damages, and costs in connection with the Site is divisible.

Counsel for defendants NCR Corporation and International Paper Company have indicated their assent to entry of this Revised Stipulation, including paragraph 5 as to when issues of divisibility will be tried. For the avoidance of doubt, nothing in this Revised Stipulation is intended to affect the burden of proof for Phase One on any claims alleging that NCR or International Paper bears liability at the Site for discharges of PCBs from a facility or facilities at the Site.

Dated: October 15, 2012

**Georgia-Pacific Consumer Products, LP,
Fort James Corporation, and
Georgia-Pacific LLC**

By: /s/ Joseph C. Kearfott

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The foregoing Revised Stipulation is hereby approved and so ORDERED.

Dated: February 8, 2013

/s/Robert J. Jonker
Robert J. Jonker
United States District Judge